IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRL. MISC. NO. 55214-M OF 2007
DECIDED ON : 31.12.2007

Subhash Jain

...Petitioner

versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BINDAL

Present : Mr. P. S. Hundal, Advocate,
for the petitioner.

Mr. Shilesh Gupta, DAG, Punjab.

RAJESH BINDAL, J. (ORAL)

The prayer in the present petition is for anticipatory bail in FIR No. 162 dated 07.12.2007 registered against the petitioner under Sections 307/ 452/ 392/ 506/ 427/ 148/ 149 of the Indian Penal Code and Section 25 of the Arms Act at Police Station Gidderbaha, District Mukatsar.

Learned counsel for the petitioner submits that registration of the case against the petitioner is nothing else but a political rivalry as the petitioner belongs to a party which is not in power now. The petitioner is a respectable citizen of the city, who was earlier President of the Municipal Council, Gidderbaha. Apprehending his arrest in any false case, the petitioner had earlier filed application for blanket bail before Additional Sessions Judge, Mukatsar in which vide order dated April 25, 2007, he was granted the relief with a direction to the authority to give the

petitioner three days prior notice in case his arrest was required. The allegations in the present FIR are that the petitioner along with seven other persons entered the Community Centre, Mandiwali Dharamshala on December 07, 2007 firstly at about 5:00 P.M and secondly at about 7:30 P.M. Second time, it is alleged that he fired two gun shots with his revolver with intention to kill the complainant Baldev Kumar. It is also alleged that two Fixed Deposit Receipts worth Rs. 12 lacs issued by State Bank of Patiala and further a sum of Rs. 40,000/- from the drawer were also taken by him.

Learned counsel for the petitioner further submits that inspite of blanket bail having been granted by the Court below, on December 07, 2007 in the morning, the petitioner was taken by the police without any case registered against him. However, on the protest made by the local residents, he was released in the evening.

As far as the present FIR is concerned, the submission is that the gun shots were not fired from his pistol. He had already deposited his fire arm with the arms dealer on December 08, 2007 having came to know about the FIR and further the FDRs are still lying in the Dharamshala.

As far as sum of Rs. 40,000/- is concerned, the petitioner has submitted that though he has not taken any money but still he can deposit that amount with the Court, without prejudice to his right in the case.

Prayer made by the petitioner is opposed by the respondent-State with the allegation that there is recording of the incident which occurred at 5:00 P.M in Dharamshala. However, it cannot be explained as to why the press persons or other persons were present in the Dharamshala to

record the incidence.

As regards the factum as to whether the FDRs are still lying in the Dharamshala or have been encashed is concerned, the correct position is not known to the counsel for the State, as instructed by the Investigating Officer who is present in the Court.

Keeping in view the above mentioned circumstances and also the fact though there is allegation regarding firing of gun shots, however, in the FIR it is not mentioned as to which place the gun shot hit. Further there is nothing available on record to state regarding the status of FDRs. The fact that the petitioner was President of Municipal Council is not denied. On appreciation of facts noticed above, I find that a case for anticipatory bail is made out.

Accordingly, in case of arrest, the petitioner shall o be released on interim bail on furnishing bail bonds to the satisfaction of the Arresting Officer/Investigating Officer subject to the conditions specified in Section 438 (2) of the Code of Criminal Procedure further with the condition that the petitioner shall deposit a sum of Rs. 40,000/- with the Trial Court without prejudice to his right in the present litigation.

The petition is disposed of accordingly.

DECEMBER 31, 2007 **(RAJESH BINDAL)**
shalini **JUDGE**